

DOCKET FILE COPY ORIGINAL

RECEIVED

JUNE 3 1997

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
Implementation of the Pay Telephone ) CC Docket No. 96-128  
Reclassification and Compensation )  
Provisions of the )  
Telecommunications Act of the 1996 )

**COMMENTS OF BUSINESS TELECOM, INC.  
ON PETITION OF TELCO COMMUNICATIONS GROUP, INC.  
FOR WAIVER OF SECTION 64.1301 OF THE COMMISSION'S RULES**

Business Telecom, Inc. ("BTI"), by its undersigned counsel and pursuant to the Commission's Public Notice released May 13, 1997, respectfully submits its Comments in support of the petition of Telco Communications Group, Inc. ("Telco") for a waiver of Section 64.1301 of the Commission's Rules. In its waiver request, Telco seeks authority from the Common Carrier Bureau ("Bureau") to compensate payphone service providers ("PSPs") on a per-call basis rather than through the interim flat-rate compensation mechanism created by the Commission in its orders in this docket.<sup>1</sup> Because BTI believes that the Commission's interim compensation scheme requires certain carriers to pay for calls they do not carry and constitutes a windfall for PSPs, BTI supports the principle of Telco's waiver request.

No. of Copies rec'd  
List ABCDE

C+5

---

<sup>1</sup> *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Report and Order, FCC 96-388 (rel. Sept. 20, 1996) ("*Payphone Order*"), Order on Reconsideration, CC Docket No. 96-128, FCC 96-439 (rel. Nov. 8, 1996) ("*Reconsideration Order*").

**I. THE COMMISSION'S INTERIM COMPENSATION SCHEME REQUIRES MANY CARRIERS TO COMPENSATE PSPs FOR CALLS THAT THEY DO NOT CARRY**

The Commission's interim compensation scheme calculates a carrier's PSP compensation on a percentage of its toll revenues. There is no record evidence to suggest, however, that a carrier's toll revenues bear any relationship to the number of payphone calls it carries. Indeed, as Telco noted in its waiver, Telco estimates that it will be required to pay independent PSPs over \$51,000 per month, and if incumbent local exchange carriers ("LECs") are included in the calculation,<sup>2</sup> Telco approximates that its monthly compensation requirement will increase by more than 500%, to over \$271,000 per month. BTI is similarly situated. Pursuant to the Commission's flat rate compensation plan, BTI will be required to pay PSPs over \$27,000 per month and will be required to pay almost \$118,000 per month once the LECs are included. These flat-rate compensation figures bear little relationship to the amount of revenues that IXC's such as Telco and BTI will in fact receive as a result of calls they carry from payphones.

Many carriers like Telco and BTI derive the vast majority of their revenues from sources other than payphone calls. For example, Telco states that much of its revenue comes from casual calling -- which requires dialing of access codes prior to placing direct-dialed long distance calls. Such calls cannot be completed from payphones. Similarly, BTI targets its services to small businesses and does not emphasize services that are likely to be used from a payphone. Thus, carriers who offer such services may in fact receive a relatively small percentage of their revenues from payphone calls, as

---

<sup>2</sup> Indeed, given the Bureau's recent decisions to waive compliance with certain tariff requirements imposed upon incumbent LECs by the *Payphone Order* and the *Reconsideration Order*, it seems likely that the compensation calculation will include the 1.5 million LEC-owned payphones. See *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Order, DA 97-678 (Com. Car. Bur. Apr. 4, 1997); Order, DA 97-805 (Com. Car. Bur. Apr. 15, 1997).

compared to other IXC's that target the payphone user market. Forcing carriers who derive a small percentage of revenue from payphone calls to compensate PSPs on a flat-rate basis may lead to an irrational and unfair drastic overpayment by these IXC's.<sup>3</sup> Allowing those carriers who are able to instead compensate PSPs on a per-call basis directly links the amount of compensation owed to the amount of revenues received, and thereby eliminates the unconscionable forced overcompensation that may arise for IXC's such as Telco or BTI under the flat-rate compensation mechanism.

### III. CONCLUSION

For the foregoing reasons, BTI respectfully requests that the Bureau grant Telco's petition for a waiver of Section 64.1301 of the Commission's Rules, so that Telco may begin compensating PSPs on a per-call basis before October 7, 1997.

Respectfully Submitted,



Anthony M. Copeland  
Business Telecom, Inc.  
4300 Six Forks Road  
Raleigh, North Carolina 27624.

Date: June 3, 1997

---

<sup>3</sup> Telco made this point effectively in its petition, demonstrating that it would be required to pay independent PSPs approximately \$51,378 each month during the flat-rate compensation period, while Telco customers would in fact only generate \$5,364 worth of compensable calls each month. When LEC-owned payphones are added to the calculation, Telco's estimated overpayment leaps to almost \$200,000 per month. Even when a carrier generates more than \$100 Million in revenues annually, \$2.4 Million in payments for services that the carrier never receives can have a significant and severe impact upon a carrier's financial health and stability.

**CERTIFICATE OF SERVICE**

I, Celia Petrowsky, hereby certify that copies of the foregoing **Comments of Business Telecom, Inc. On Petition of Telco Communications Group, Inc. For Waiver of Section 64.1301 of the Commission's Rules** were sent to each of the following parties by hand delivery on this 3rd day of June, 1997.

Chief, Enforcement Division  
Common Carrier Bureau  
Federal Communications Commission  
Mail Stop 1600A, Room 6008  
2025 M Street, N.W.  
Washington, D.C. 20554

International Transcription Service  
2100 M Street, N.W., Room 140  
Washington, D.C. 20037

Telco Communications Group, Inc. \*  
419 Lafayette Center Drive  
Chantilly, VA 20151

  
Celia Petrowsky

\* Via First Class Mail